

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs, pursuant to D.C. Official Code § 47-2851.20 (2005 Repl.), section 4(15) of the District of Columbia Consumer Protection Procedures Act (D.C. Law 1-76; D.C. Official Code § 28-3903(15))(2001), and D.C. Official Code § 47-2851.04(c)(1), hereby gives notice of the adoption of the following emergency rulemaking. This emergency rulemaking will amend Title 16, Chapter 3 of the *D.C. Municipal Regulations* (DCMR) to add a new section 314 to establish new regulations for the outdoor storage of motor vehicles.

This emergency rulemaking is necessitated by the immediate need to address a gap in the regulation of establishments that purport to be used car dealerships, but function instead as long-term storage lots for motor vehicles that are in varying states of disrepair and are not being actively offered for sale. These lots pose an immediate and continuing threat to the public health, safety, and comfort, by, among other things, attracting criminal activity while discouraging normal pedestrian traffic, creating rodent harborages, and causing harm to the environment through discharges of hazardous fluids and other solid waste.

This emergency rule was adopted on December 23, 2008, and became effective immediately. This emergency rule will remain in effect for up to one hundred twenty (120) days, unless earlier superseded by a notice of final rulemaking.

The Director also hereby gives notice of the intent to adopt this rule, in final, in not less than thirty (30) days from the publication of this notice in the *D.C. Register*.

Title 16, Chapter 300 of the DCMR is amended to add new section 314 to read as follows:

314 Outdoor Storage of Motor Vehicles

314.1 For purposes of this section, the following definitions shall apply:

- (a) The phrase “outdoor storage of motor vehicles” shall mean keeping, on the same lot or at the same location, five (5) or more motor vehicles outside of a permanent garage or permanent building, for any purpose, including, but not limited to, for storage or display by a licensed dealer, but excluding:
 - (1) Keeping operational motor vehicles on a residential property for household use;
 - (2) Parking, at an establishment, of motor vehicles used by customers, employees, visitors, and other persons, to travel to and from the establishment;

- (3) Parking, at an establishment, of operational motor vehicles that are owned or leased by the establishment and that are kept and regularly used by the establishment for the purpose of transporting passengers, goods, or equipment;
 - (4) Parking of customers' motor vehicles at a licensed parking lot or by a licensed valet parking company;
 - (5) Storage of customers' motor vehicles at an establishment licensed to repair or service motor vehicles for customers;
 - (6) Storage of towed or repossessed motor vehicles as part of a licensed motor vehicle towing or repossession business;
 - (7) Storage of operational motor vehicles as part of a licensed motor vehicle leasing or rental business; or
 - (8) Storage or display of motor vehicles by a dealer on a lot that the dealer uses primarily for the sale of new motor vehicles;
- (b) "Offered for retail sale" means offered individually for sale to the public, including to consumers, and made available to consumers for inspection; and
- (c) "Retail sale" means a sale that directly results from a motor vehicle being offered for retail sale.
- 314.2 No person shall engage in outdoor storage of motor vehicles except on a lot for which the person holds both:
- (a) A basic business license, with a Motor Vehicle Sales, Service, and Repair license endorsement, for a Motor Vehicle Dealer; and
 - (b) A basic business license, with a Motor Vehicle Sales, Service, and Repair license endorsement, for a Used Car Lot.
- 314.3 The category license fee for a basic business license, with a Motor Vehicle Sales, Service, and Repair license endorsement, for a Used Car Lot, shall be \$1,000.00.
- 314.4 No person shall engage in outdoor storage of motor vehicles on a lot unless the person:

- (a) In addition to filing any other bond or security that may be required for applicable license categories other than Used Car Lot, has filed a bond or other security in the amount of one hundred thousand dollars (\$100,000) that, in all respects other than its dollar amount, complies with the provisions of 16 DCMR § 307;
- (b) Has designated a registered agent who engages in the business of providing registered agent services from an office in the District of Columbia;
- (c) Is the only person holding a basic business license for the lot, other than persons holding Motor Vehicle Salesman licenses for the lot;
- (d) Keeps, in a secure location on the lot, the books and records of each of the lot's licensed establishments, and makes such books and records available for immediate inspection by the Director at any time during regular business hours;
- (e) Includes the following in the books and records kept on the lot:
 - (i) The purchase and sale records, vehicle titles, transfers of ownership, and dealer tags, and
 - (ii) For a period of two (2) years following the sale or disposal of a motor vehicle that was stored or displayed outdoors on the lot, records showing the motor vehicle's make, model, and vehicle identification number (VIN), the dates that outdoor storage or display of the motor vehicle on the lot commenced and ended, whether the motor vehicle was disposed of through a retail sale on the lot or in some other way, the name and address of any purchaser of the motor vehicle, the date and terms of any purchase of the motor vehicle, and a copy of the Federal Trade Commission Buyers Guide for the purchase of the motor vehicle;
- (f) Provides copies of any records required by § 314.6(e)(ii) to the Director, within fourteen (14) days of a written request mailed by the Director to the person's designated registered agent; and
- (g) During any six (6) month period, ensures that at least seventy (70) percent of the disposals of motor vehicles that have been stored or displayed outdoors on the lot are through retail sales on the lot, unless, during the six (6) month period in question, there are fewer than seven (7) disposals of motor vehicles that have been stored or displayed outdoors on the lot.

- 314.5 Any person who engages in outdoor storage of motor vehicles shall store the motor vehicles on a lot and in spaces meeting the following requirements:
- (a) The lot shall be located in a C-M or M zoning district;
 - (b) The lot shall have an office, with desk, chairs, and filing space, in a permanent building of at least two hundred fifty (250) square feet, with heating, electricity, and a bathroom connected to the District's water and sewer lines;
 - (c) The lot shall maintain a permanent sign, visible from the lot entrance, showing the name of the establishment and its hours of operation;
 - (d) Each automobile space shall be a minimum of nine (9) feet in width and nineteen (19) feet in length, and the space boundaries shall be clearly marked with painted lines;
 - (e) Any adjoining public or private space shall be protected from vehicular encroachment by curbs, guard rails, or fencing, that prevent vehicles on the lot from protruding over any lot boundary;
 - (f) The areas of the lot used for storing or moving motor vehicles shall be paved and maintained;
 - (g) The lot shall be landscaped with live trees and shrubs that cover an area equal to at least five (5) percent of the lot's paved area; and
 - (h) The areas of the lot used for storing motor vehicles shall be screened from all contiguous residential property by a solid brick or stone wall at least twelve (12) inches thick and forty-two (42) inches high or by evergreen hedges or evergreen growing trees that are thickly planted and maintained and that are at least forty-two (42) inches in height when planted.
- 314.6 Any person who engages in outdoor storage of motor vehicles on a lot shall observe the following conditions:
- (a) The lot shall normally be open to the public during regular business hours, which shall be at least thirty (30) hours a week;
 - (b) Each motor vehicle stored or displayed outdoors, unless being held for customer pickup following a retail sale, shall be offered for retail sale, except that up to four (4) motor vehicles, or one (1) motor vehicle per two thousand (2,000) square feet of lot space,

whichever is greater, may be stored outdoors while being prepared for sale or other disposal;

- (c) Each motor vehicle being offered for retail sale shall display a completed Federal Trade Commission Buyers Guide with “implied warranties only” disclosures, in accordance with the Federal Trade Commission’s Used Car Rule, 16 CFR Part 455, and shall be in running condition;
- (d) The title for each motor vehicle that is stored or displayed outdoors shall identify the person as the owner, except that a motor vehicle being held for customer pickup following a retail sale may show the customer as the owner;
- (e) All holders of Motor Vehicle Salesman licenses for the lot shall be employees of the person who holds the Motor Vehicle Dealer license and the Used Car Lot license for the lot;
- (f) All Motor Vehicle Salesman licenses issued for the lot shall be designated as “Seller Only” licenses, except that up to one (1) Motor Vehicle Salesman license per three thousand (3,000) square feet of lot space may be designated as a “Buyer and Seller” license;
- (g) No motor vehicle parts or trash shall be stored outdoors on the lot, unless stored off the ground in secured containers; and
- (h) No disassembled or junk vehicles shall be stored outdoors on the lot.

314.7 Violation of this section shall be cause for denial, suspension, or revocation of a basic business license, with a Motor Vehicle Sales, Service, and Repair license endorsement, for a Used Car Lot.

Comments on this rule should be submitted, in writing, to Helder Gil, Legislative Affairs Specialist, Department of Consumer and Regulatory Affairs at 941 North Capitol Street, NE, Suite 9500, Washington, DC, 20002, within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of this rule are available from the above address.

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF EMERGENCY RULEMAKING

The Chairperson of the District of Columbia Taxicab Commission, pursuant to the authority set forth under section 105 of the 2005 District of Columbia Omnibus Authorization Act, approved October 16, 2006 (120 Stat. 2023; D.C. Official Code § 50-381(a) (2008 Supp)), Mayor's Order, 2007-231, dated October 17, 2007, hereby gives notice of emergency rulemaking action taken on Tuesday, December 2, 2008 to amend section 801.6(m) of Title 31 of the District of Columbia Municipal Regulations. This emergency rulemaking action rescinds the one dollar (\$1.00) per taxicab trip fuel surcharge which would have expired at midnight, Friday, January 23, 2009. This rescission, which is effective at 12:01 a.m. on Thursday, December 4, 2008, is a result of declining fuel costs.

Title 31 DCMR, Chapter 8, OPERATION OF TAXICABS, Section 801, Passenger Rates and Charges, is amended as follows:

801.6 (m) Fuel Surcharge – REPEALED